

**TOWN OF HOPEDALE PLANNING BOARD**  
**DECISION AND CERTIFICATE OF ACTION FOR 75-131 Plain Street, LLC/GFI PARTNERS, LLC**  
**75 PLAIN STREET, HOPEDALE, MA**  
**SITE PLAN REVIEW**

RECEIVED HOPEDALE TOWN CLERK  
MAY 18 2022 AM 11:41

May 11, 2022

**Site & Procedural Information**

Project Name: Proposed warehouse distribution facility – 616,875 sf.  
75 Plain Street, Hopedale, MA

Owner: Rosenfeld Concrete Corp., f/k/a DMJ Concrete Corp.  
100 North Washington Street, P.O. Box 9187  
Boston, MA 02114

Applicant: 75-131 Plain Street, LLC  
c/o GFI Partners, LLC  
133 Pearl Street, Suite 300  
Boston, MA 02110

Designer: Highpoint Engineering, Inc.  
980 Washington Street, Suite 216  
Dedham, MA 02026

Traffic Engineer: Bayside Engineering Inc.  
600 Unicorn Park Drive  
Woburn, MA 01801

Acoustic Consultant: Tech Environmental, Inc.  
Hobbs Brook Office Park  
303 Wyman Street, Suite 295  
Waltham, MA 02451

Property Location: Assessor's Parcel ID 22-28-0

Deed Reference: Book 8780 Page 110

Zoning District: LI – Light Industry District  
Ground Water Protection District

Relief Sought: Site Plan Review and Approval (By-Law § 18.2)<sup>1</sup>

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<sup>1</sup> The project also requires a Ground Water Protect District Special Permit from the Zoning Board of Appeals ("ZBA") under By-Law, § 17.6(c)(6). The scope of work described also requires relief from the Conservation Commission. The Applicant currently has open proceedings with the ZBA and Conservation Commission.

Dates:	Submittal:	09/09/2021
	Public hearings:	10/06/2021 (Testimony taken – Continued)
		11/03/2021 (Testimony taken – Continued)
		12/01/2021 (Testimony taken – Continued)
		01/05/2022 (Testimony taken – Continued)
		02/02/2022 (Testimony taken – Continued)
		02/23/2022 (Testimony taken – Continued)
		03/02/2022 (Testimony taken – Continued)
		03/23/2022 (Testimony taken – Continued)
		04/06/2022 (Testimony taken – Continued)
		04/25/2022 (Testimony taken – Continued)
		05/04/2022 (Testimony taken – Continued)
		05/11/2022 (Testimony taken – Closed)

Submittal Information:

- a. Transmittal letter from Mayer, Antonellis, Jachowicz & Haranas, LLP dated September 9, 2022.
- b. Abutters list – 300 feet.
- c. Application for Site Plan Review of Proposed Warehouse Building dated September 1, 2021, and prepared by Highpoint Engineering, Inc. (including identification of project team, project narrative, application forms, and technical appendices which are listed separately below)
- d. Plans entitled “Definitive Site Development Plans” dated September 1, 2021, prepared by Highpoint Engineering, Inc. (consisting of 45 sheets)
- e. “Stormwater Management Analysis” dated September 1, 2021, prepared by Highpoint Engineering, Inc. (consisting of 16 numbered pages of analysis, more than 500 pages of figures, tables, analyses, charts and graphs, a Department of Environmental Protection checklist form, a six-page “Construction-Phase Operation and Maintenance Plan,” and a seven-page “Long-Term Operation and Maintenance Plan”)
- f. “Traffic Impact and Access Study” prepared by Bayside Engineering dated August 24, 2021 (consisting of a 10-page executive summary, a nine-page summary of existing traffic conditions, an 11-page projection of future no-build and build conditions, a nine-page analysis section, five pages of recommendations and conclusions, and 361 pages of supplemental figures, analyses, motor vehicle crash reports, calculation worksheets, and calculations)
- g. “Local Fiscal Benefits” analysis dated September 27, 2021, prepared by Mark J. Fougere, AICP (consisting of four pages)
- h. Correspondence from Highpoint Engineers dated November 30, 2021, enclosing (a) a five-page Sound Study authored by Tech Environmental, (b) a two-page Transportation Demand Management Plan authored by Bayside Engineering, and (c) a 13-page document illustrating what the Applicant believes to be comparable properties to the Applicant’s proposed use at the project site
- i. Transportation Peer Review correspondence authored by MDM Transportation Consultants, Inc. dated December 10, 2021

- j. Site Plan Peer Review correspondence authored by Graves Engineering, Inc. dated December 14, 2021
- k. Email correspondence from Colleen Stone dated November 2, 2021
- l. Email correspondence from Kevin Evers dated November 3, 2021
- m. Email correspondence from Paul Butcher dated November 17, 2021
- n. Email correspondence from Heather Lewis dated November 22, 2021
- o. Email correspondence from Heather Lewis dated December 8, 2021
- p. Email correspondence from Bruce Howe dated December 14, 2021
- q. Correspondence from Highpoint Engineering dated January 14, 2022, enclosing (a) Revised Site plans entitled, "Proposed Warehouse Building – 75 Plain Steet | Definitive Site Development Plans", revised 01-14-2022 prepared by Highpoint, (b) Report entitled, "Long Term Operation and Maintenance Plan", revised 01-14-2022 prepared by Highpoint, and (c) Letter entitled, "Response to Peer Review Comments", dated 01-14-2022 prepared by Highpoint and addressed directly to Graves Engineering.
- r. Single-spaced document referred to throughout the proceedings as "the petition" or the "warehouse opposition letter"<sup>2</sup>
- s. Document entitled "Opposition of Proposed Warehouse at 75 Plain Street" submitted by the Lewis (17 Bens Way), Stone (21 Bens Way), Bird (15 Bens Way), and Machado (4 Richard Road) households under the name "Preserve Hopedale"
- t. Peer review correspondence authored by Graves Engineering, Inc. dated February 2, 2022
- u. Correspondence from Timothy J. Watson, Manager of the Water & Sewer Departments, dated February 11, 2022
- v. Email correspondence from Christopher Menge of HMMH providing Sound Study Peer Review comments, dated February 17, 2022
- w. Transportation Peer Review Supplemental Comments of MDM Transportation Consultants, Inc. dated February 18, 2022
- x. Email correspondence from Ricky Lima dated February 21, 2022
- y. Email correspondence from Jesse Brytowski dated February 21, 2022
- z. Email correspondence from Mark Rizoli dated February 22, 2022
- aa. Correspondence from David Thompson (undated but sent February 23, 2022)
- bb. Correspondence from Tech Environmental regarding Sound Study (and peer review comments) dated March 1, 2022, enclosing a revised study (the revised study and enclosures total 34 pages)
- cc. Correspondence from Tech Environmental regarding "Air Quality Assessment for 75 Plain Street, Hopedale, MA" dated March 1, 2022
- dd. Email correspondence from Kevin Evers dated March 2, 2022

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<sup>2</sup> The petition/opposition letter objects to the Applicant's proposed use on the basis of concerns titled as "general," "noise," "pollution," and "traffic." The document was separately signed by several residents and separately submitted to various Town Departments, but clarification on the record established that all documents so submitted were identical. Also included in the record are multiple iterations of a spreadsheet which certain residents have testified represents a summary of all persons having signed a copy of the petition/opposition letter. The Board makes no finding as to the accuracy of the spreadsheets but has considered the concerns raised by residents, including but not limited to, those concerns articulated in the petition/opposition letter.

- ee. Technical Memorandum from HMMH dated March 9, 2022 concerning peer review of sound study
- ff. Correspondence from Bayside Engineering regarding revisions following MDM Transportation Consultant's 2/18/22 peer review comments
- gg. Single sheet draft plan of intersection improvements at Harford Avenue and Plain Streets submitted by Bayside Engineering
- hh. Email correspondence from Mark Andolina dated March 23, 2022
- ii. Email correspondence from Michael Hyland dated March 23, 2022
- jj. Correspondence from GFI Partners authored by William Buckley dated March 23, 2022
- kk. Document submitted by the Lewis, Stone, Bird, and Machado households under the name of "Preserve Hopedale" entitled "Restrict & Condition Requests for Proposed Warehouse/Distribution Center at 75 Plain Street," dated April 5, 2022
- ll. Undated correspondence from Steven and Vicki Zuromski
- mm. Memorandum of GFI Partners authored by William Buckley dated April 25, 2022

### **Background**

The Applicant proposes to construct a 616,875 square foot warehouse building with ancillary business offices included. The locus contains 141<sup>3</sup> acres and is on a parcel that has historically been used as a concrete manufacturing and sand and gravel plant.<sup>4</sup> The property is adjacent to Plain Street on the East, Hopedale Country Club and drinking water well fields of the Town of Hopedale on the north, the mill river to the west, and the Plain Street Industrial Park (i.e., Rosenfeld Drive and Condon Way) to the south. The site is located in the LI (Light Industry) Zoning District. The entire site lies in the Groundwater Protection District. Major issues of concern raised during the public hearings included the impacts of traffic and trucks, noise, fumes from idling, hours of operation, impacts on the surrounding neighborhood and streets (i.e., Harford Avenue, Rt. 140, as well as side streets like Newton Street, Mellen Street, Warfield Street, Bens Way, Richard Road, and Neck Hill Road), and clarification as to the actual use of the building, since the final tenant is unknown. Changes to the proposal were made in response to comments from the Board, peer reviewers, and abutting owners to help reduce community impacts. These changes are reflected in the final plan set and the conditions set forth herein.

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<sup>3</sup> The acreage stated herein is taken from the Hopedale Assessors records. The Applicant states that the property consists of 144.6 acres. This Board makes no finding as to which measurement is more accurate, as the less than 3% difference in land area is not material to this Board's decision.

<sup>4</sup> "Concrete manufacturing and washed sand and gravel plants" are allowed only in the Industrial Zoning District (By-Law Table 11.4). The use is not allowed within the Light Industry Zoning District where the subject property is located, neither by special permit nor otherwise. This Board assumes without deciding, based upon credible historical research and corresponding aerial photographs presented by the Applicant, that the historic non-conforming use of the project site predated the Zoning By-Law. Notably, the historic sand and gravel use may well be prohibited by By-Law § 17.6(b)(8), although such a determination is not material to the Board's Site Plan Review, and accordingly, presentation was not made (nor was testimony solicited) as to whether the historic earth removal activities at the site came within six feet of historical high groundwater. Therefore, while this Board does not decide whether the historic use failed to conform to the requirements of the Ground Water Protection By-Law, the Board does find that the historic use was non-conforming.

### General Findings

1. The site lies in the LI (Light Industry) Zoning District and the Groundwater Protection District (GPD). The site does not lie within a FEMA flood zone. The site was used in the past as a concrete manufacturing and sand and gravel plant.
2. Warehouse uses are allowed by right in the LI District. Site Plan Review is required because the Applicant seeks to construct more than 6,000 square feet of gross floor area and requires the provision of ten or more parking spaces. (See By-Law § 18.2.)
3. A Special Permit under Groundwater Protection District is required because the project proposes to render more than 2,500 square feet of land impervious. (See By-Law, § 17.6(c)(6).)
4. Conservation: According to the Applicant's plans, significant wetlands exist on the site. The Applicant also informs the Board that significant environmental cleanup will be required due to the historic use of the property. Therefore, the Applicant must obtain all applicable Orders of Conditions from the Conservation Commission and must comply with all state and federal common law, statutes, regulations, administrative rulings/guidance, and other applicable legal standards when performing work at the property.
5. ZBA: No variances from zoning have been requested but the Applicant must obtain a Ground Water Protection District Special Permit from the ZBA.
6. A peer review of the civil/site issues has been performed on behalf of the Town by Graves Engineering. In accordance with a letter submitted by Graves Engineering, Inc. dated 02/02/2022 and corresponding adjustments made to Sheet C803 by the Applicant,<sup>5</sup> all civil/site issues identified by Graves have been resolved by the Applicant.
7. A peer review of the traffic issues has been performed on behalf of the Town by MDM Transportation Consultants, Inc.
8. A peer review of the Applicant's sound study was performed on behalf of the Town by HMMH.
9. The warehouse as submitted shows 139 loading spaces, 206 trailer parking spaces, 300 passenger car parking spaces, and expansion area for an additional 100 trailer spaces as shown on plans (if needed). The average number of weekday vehicle trips (car and truck combined) is expected to be 1,074. The conditions set forth herein refer to the building as a whole.
10. The review of this application has taken into consideration the criteria required for site plan review, as set forth in By-Law § 18.5, subject to the conditions listed herein, as described below:
  - a. § 18.5(a): As conditioned, this project will be of social, economic and community benefit to the Town. The proposed warehouse use is allowed "by right" in this zoning district, with a special permit from the ZBA being required for rendering more than 2,500 sf impervious within the Ground Water Protection Zoning District (as stated previously, the Applicant must apply for and obtain this Special Permit from the ZBA). The building façade and construction are similar to what would be expected for a building of this type of use. The project should realize aesthetic and environmental

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<sup>5</sup> To the extent this revision has not been made, such a revision is a condition of this Board's approval of the project.

improvements as compared to existing conditions. The tax revenue is estimated to be around \$1,000,000/year. The Town has zoned this area for industrial use in hopes of obtaining tax revenue from commercial development, which this project will provide. Demand on municipal utilities is minimal. Approximately 300 permanent local jobs will be created to operate this facility, in addition to numerous shorter term construction jobs.

- b. § 18.5(b): A Traffic Impact and Access Study (TIAS) was prepared for the Applicant by Bayside Engineering and was peer reviewed by MDM Transportation Consultants, Inc. for the Town. The TIAS and plans of the Applicant demonstrated compliance with the By-Law's minimal requirements of "safe vehicular and pedestrian movement within the site," for "convenient and safe" driveway openings in relationship the adjacent street network, and for "adequate emergency vehicle access."
- c. § 18.5(c): The Applicant's presentation has satisfied the Board that provisions have been made for adequate parking and loading spaces and for the minimization of visual intrusion of these areas from public ways. The building is located 672 feet from the nearest abutter on Plain Street and 997 feet from the nearest abutter on Neck Hill Road or Ben's Way. Additionally, the location of the building, the length of the entrance way and other factors ensure that there will be no need for on street parking. The site has been designed to allow trucks approaching and using the facility to do so without idling or parking on any public way in Hopedale.
- d. § 18.5(d): The Applicant's revised plans and renderings show landscaping measures and overall site design which sufficiently screen the appearance of off-street parking areas from abutting properties, and which create acceptable visual and noise buffers intended to minimize encroachment upon the residential property uses to the east, west, and north of the project site. More specifically, the use of grading, berms, sound walls and the like, as shown on the Applicant's revised plans, accomplish that which is required by By-Law § 18.5(d).
- e. § 18.5(e): The Applicant's plans and other application materials, including its peer-reviewed Stormwater Management Plan, make adequate provision for controlling surface water runoff so as to minimize impacts on neighboring properties and streets and to prevent soil erosion and sedimentation of the Town's surface waters. According to Graves Engineering, the Town's peer review consultant, the proposed development will not only meet the Town's regulations, but it will also significantly improve the existing site conditions by decreasing untreated runoff from the site by 76% in a two-year storm and 72 % in a 10-year storm.
- f. § 18.5(f): The Applicant's plans do not call for sewage disposal nor the use, storage, handling, or containment of hazardous substances in any form, and therefore, the proposed activities do not create a risk of groundwater contamination as contemplated by By-Law § 18.5(f). The site will be served by municipal sewer and the Applicant's plans are to the satisfaction of the Water & Sewer Department's Manager.

g. § 18.5(g): The project, as conditioned, contains appropriate safeguards and monitoring with respect to the risk of excessive or unreasonable, noise, smoke, vapors, fumes, dust, glare, and the like. Impacts are addressed as follows:

- i. Odors/Vapors/Fumes: The actual facility is not anticipated to create any objectionable odors, vapors, or fumes. Fumes from vehicles will be reduced via the use of electric vehicles as specified in the Applicant's plans and presentation. Observance of Massachusetts' anti-idling law on site as well as the site layout should serve to minimize the impact of diesel fumes on nearby residences.
- ii. Dust and Glare: Based on testimony during the hearings, no dust or glare is expected to be generated from the facility.
- iii. Noise: Provisions to limit noise impacts on the surrounding neighborhood have been incorporated into the conditions set forth herein, including the installation of berms/sound barriers to the west of the site adjacent to the mill river and along the north and south of the site driveway.
- iv. Visual: The building will be the largest in the Town, but screening in the form of shrubs, berms, wooded buffer areas, and landscaping will be provided, and in addition, the building will be set back from the street significantly. The view of the site from the public way post-construction will represent a significant improvement as compared to the current view of the significantly disturbed property.
- v. Other: The applicant represents that truck traffic volumes will be minimal during the overnight hours, which will reduce overall impacts from the development.

§ 18.5(h): The project does not implicate structures listed in the State Register of Historic Places.

11. Pursuant to By-Law § 17.7(a), this Board finds that the intent and specific criteria of the Ground Water Protection (GWP) By-Law is met by this Application and that the Applicant's application materials include sufficiently detailed, definite, and credible information to support positive findings in in relationship to the standards set forth within the GWP By-Law. More specifically, pursuant to By-Law § 17.7(c), the Board finds:

- a. 17.7(c)(1): The proposed use will not adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District. Based upon comments from the Water & Sewer Departments and the Planning Board's peer reviewers, snow removal/storage/plowing plans have been altered so that snow will be stored on the south side of the property, thereby alleviating concerns of possible drinking water contamination. In his correspondence of February 11, 2022, Water & Sewer Department Manager Timothy J. Watson states, among other things, "[a]fter reviewing the storm water plan, I am comfortable with the protection provided to the Mill Street Well Field." (Watson Correspondence, p.1, ¶4.)
- b. 17.7(c)(2): The proposed use is designed to avoid substantial disturbance of soils, topography, drainage, vegetation, and other water-related natural characteristics (if any) of the site to be developed. According to Manager

Watson, "[t]he property owner will also be fully responsible for any environmental remediating on site, which includes a 20,000-gallon UST, and any other areas identified during construction." (Watson correspondence, p.1, ¶5.) "The removal of this ground contamination, as well as others that may be identified, will be beneficial to all." (*Id.*, at pp.1-2.) The following concluding remarks in Mr. Watson's correspondence, cement this Board's conclusion that the requirements of the GWP By-Law are met, if not exceeded:

"In closing, I agree with the Peer Review from Graves Engineering that the SWP will reduce the surface water runoff and increase the on-site infiltration.... This new infiltration, with proper treatment could in fact be beneficial to the Water & Sewer aspects. I do not believe I would have the same opinion if this were undeveloped forestland or "clean site" and not a defunct cement yard...."

(Watson correspondence, p.2, ¶3.)

12. To the extent the GPD By-Law requires this Board make a recommendation to the ZBA, this Board recommends that the ZBA issue a GPD Special Permit to the Applicant.<sup>6</sup>
13. The proposed use, as conditioned, is not noxious, harmful or hazardous, is socially and economically desirable, meets an existing or potential need and the Applicant has no reasonable alternative available to accomplish the purpose of the application in a manner more compatible with the character of the immediate neighborhood. As part of its proposed work, the Applicant has committed to "reclaiming" previously disturbed wooded areas and removing above ground and underground fuel storage tanks, as well as to remove existing industrial debris from the site's previous use.
14. The advantages of the proposed use, as conditioned, outweigh any detrimental effects, and such detrimental effects on the neighborhood and the environment will not be greater than could be expected from development which could occur if the site plan were denied. The Applicant projects that the project, once built, will result in a real estate assessment of \$34,873,803.11, resulting in annual real estate tax revenues in excess of \$1,000,000, in addition to 300 jobs to the local economy and a building permit fee expected to exceed \$700,000.

#### **Administrative Conditions**

1. The provisions of this permit shall be binding upon the Applicant, the Owner, and their successors and assigns, including any future tenants, and the authorizations and obligations hereunder shall run with the land. Any instrument for sale or transfer of rights or interest in all or any part of the site shall reference this Decision and shall include a notice that the successors are bound to its terms and conditions.

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<sup>6</sup> This Board is not aware of any rules or regulations adopted by the ZBA under the GWP By-Law and thus has not made findings pursuant to By-Law § 17.7(d). To the extent the ZBA is concerned with this Board's lack of findings under § 17.7, we reserve the right to conduct further proceedings to make and report findings under § 17.7.



2. All site work and future project operations shall be in substantial conformance with the latest submitted plans and information listed above and with the final site plans required in Condition #3 below. Minor changes required by other municipal boards and commissions during the permitting process are allowed, subject to revised plans incorporating all changes being submitted to the Board for the record file. The determination as to whether a change is considered minor shall be made by the Building Commissioner, subject to confirmation by the Planning Board at the request of the Applicant.
3. Prior to the endorsement of the site plan, the following shall be complete:
  - a. Final revised plans, with a revised plan set date, incorporating all conditions and changes listed herein shall be stamped by the appropriate professional engineers and/or land surveyors and submitted to the Board. A block for Planning Board endorsement shall be placed on the cover sheet.
  - b. All invoices for consulting or other services employed by the Town in connection with the project, this decision and enforcement thereof, including without limitation engineering and legal fees, shall be paid in full within fourteen (14) days of request by the Town. Failure to pay any such invoice(s) shall automatically result in suspension of this approval, and all construction activities and/or operation of the facility shall cease until the Town receives payment of such invoice(s).
4. The owner shall submit three (3) full sized copies, three (3) 11" by 17" copies and a pdf electronic file of the endorsed site plans and all final submittal documents to the Planning Board.
5. All applicable laws, by-laws, rules, regulations, and codes shall be complied with, and all necessary permits and approvals shall be obtained by the Owner/Applicant.
6. Approval is subject to the rules, regulations and approvals of the Board of Health, Building Department and Department of Public Works. Permits from each Department/Commission must be received, where applicable, prior to the issuance of a building permit.
7. Any new drainage, paving or other excavation or disturbance that is performed within the public way is required to be inspected by the Department of Public Works, and/or the Planning Engineer, as it is performed, and at the expense of the Applicant.
8. A pre-construction meeting shall be held with the Planning Board's Consulting Engineer and Building Commissioner prior to the start of construction. The Board may require the services of a peer review engineer to inspect portions of the work both during and after construction. The costs for these inspections shall be borne by the Applicant. Based on the results of the pre-construction conference, a review deposit may be required from the Applicant at that time, but failure to require a deposit at that time shall not preclude the Board from requiring a deposit at a later date if it deems additional inspections are needed. All plan changes, documents, bonds and other items required under these conditions shall be submitted as one package at the time of this meeting, and prior to a signoff for a Building Permit, unless the Building Commissioner, in his discretion, agrees to issue the Building Permit subject to conditions that some or all of such documents be provided to him on an alternative schedule.
9. If surety is necessary to protect the interests of the Town, it shall be held in a form acceptable to the Town Treasurer.
10. An as-built plan shall be prepared by a registered professional engineer or land surveyor and submitted to the Building Commissioner and Planning Board prior to the issuance of an

Occupancy Permit. The plan shall show all construction, utility installations, landscaping and other site features that were installed on-site. The Applicant shall provide a certification from the design engineer stating that all construction has been installed in conformance with the approved plans, and, if not, provide a list of changes for review and approval by the Board and its Consulting Engineer. Any modifications or substitutions shall be reviewed and approved by the Board. The performance bond may be held until all work is satisfactorily completed.

11. The Planning Board shall also receive final as-built plans in electronic format compatible and/or able to be converted for use with the Town's GIS. A copy shall also be submitted in pdf format for more general use.
12. The Planning Board reserves the right to require the Applicant to pay consultant fees as allowed under MGL Ch. 44 § 53G for engineering, legal and any other professional review services that may be needed to adequately review this project, monitor construction activities and impacts, and review final as-built plans.

### **Earth Removal Conditions**

13. Adequate provisions shall be made for drainage during and after completion of operations. Drainage disturbances during construction shall not block flows from upstream or cause flooding on neighboring parcels.
14. No banks of excavated or filled materials shall be left after completion of daily operations with a slope which exceeds one (1) foot vertical rise in two (2) feet horizontal distance.
15. Provisions shall be made to adequately control dust during the operations – without oil or other chemicals.
16. During the operations, any excavation, quarry, bank, or work face having a height or depth of ten (10) feet or more and/or creating a slope of more than (30) degrees downward shall be fenced. Such fence shall be located ten (10) feet or more from the edge of said excavation and shall be at least six (6) feet in height.
17. All topsoil shall be stockpiled on the property and, as operations proceed, areas brought to grade which will remain as open space or landscaping shall be covered with at least four (4) inches of topsoil and/or loam and seeded with a perennial cover crop. Such areas shall be re-seeded as necessary to assure uniform growth and soil surface stabilization.
18. All debris, stumps, boulders, etc. shall be removed from the disturbed areas and disposed of in an approved location. Boulders may be disposed of on-site after approval of the Building Commissioner.
19. All existing rules and regulations governing the Earth Removal shall be observed.
20. No earth work operation shall be conducted, maintained, and/or left in a condition so as to alter the natural drainage flow beyond the property; or cause dust, silt, soil, or other materials to be deposited on adjacent properties; or to otherwise cause nuisances, hazards, or other objectionable conditions detrimental to health, safety, or property values in adjacent areas.
21. Any earth material removed from the site shall be removed only during permitted construction hours. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load. In the event that debris is carried onto any public way in connection with the construction or operation of the Project, the Applicant shall be responsible for all cleanup of the roadway. All cleanup shall occur as soon as practicable and, in any event, within twenty-four (24) hours after first notification by the Board or its

designee. Failure to complete each cleanup may result in the suspension of construction on the site until such public way is clear of debris.

22. Prior to the commencement of any site work, the Applicant shall submit to the Board a final construction phasing schedule which also identifies the designated route for construction vehicles, and their anticipated hours of travel. The installation of hay bales, compost socks and silt fence, and the clearing and grubbing necessary for such installation, shall not be considered "site work" for purposes of compliance with this condition. The plan shall clearly explain the building construction and utility sequencing and the provisions for safe access during construction. The Applicant shall ensure that, during construction, the design engineer, or its qualified representative, visits the Site regularly and, at a minimum, twice a month during peak activity periods, and provides regular reports to the Building Commissioner, Planner and Board's Consulting Engineer to advise of the status of the work, erosion control measures and any special circumstances which may arise in connection with the construction of the Project. The Applicant shall direct construction vehicles to avoid Mellen Street, Newton Street, and Warfield Street.

#### **Stormwater & Sediment Control Conditions**

23. A copy of the final Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the Planning Board and its peer reviewer for review and approval prior to the issuance of a building permit. The Board and its peer reviewer shall review the SWPPP for compliance with the terms of the conditions set forth in the approved plans and these conditions, and the adequacy of the on-going monitoring and reporting requirements needed for compliance with these conditions. Monitoring and maintenance of the stormwater management system is required for the life of the facility. Failure of the proposed sediment control system during construction will require additional remediation to be installed to prevent erosion and siltation.
24. The stormwater management system shall be permanently maintained in full working order by the Owner of the property. As required by the Storm Water Pollution Prevention Plan (SWPPP) on-going inspection reports shall be submitted to the Town and be kept on-site for random inspection as a continuing condition of approval. All components of the system must be properly maintained for the life of the proposed facility.
25. A "Stormwater Declaration of Covenant" from the Owner shall be submitted to the Board, with a copy to the Hopedale Board of Health, to ensure that the stormwater management system will be maintained by the owner of the property. The Covenant shall "run with the land" and be enforceable by the Town of Hopedale. The Covenant shall be in a form to be approved by Town Counsel and the Board, and recorded at the Worcester County Registry of Deeds prior to the start of construction.
26. Failure of the proposed sediment control system during construction will require additional remediation to be installed to prevent erosion and siltation.
27. During construction, all construction material, debris, fill and excavated material shall be stockpiled in areas at the Site designated by the Applicant. Said material shall be stabilized to prevent erosion and to control dust. All excess fill and excavated materials that are not used in conjunction with construction shall be removed from the Site and disposed of in accordance with applicable state laws and regulations. At no time shall any debris or other construction material be buried or disposed of at the Site.

28. The Applicant shall keep the Site clean during construction.
29. All catch basins and drainage structures shall be cleaned at the end of construction and thereafter in accordance with best management practices.

#### General Conditions

30. All building signs shall be installed in conformance with the requirements of Section 7 of the Zoning By-Law.
31. All Landscaping, berms, walls and fencing shown on the approved plans shall be permanently maintained by the owner, and landscaping shall be replaced as needed to maintain the buffer to neighboring parcels and compliance with the requirements of the zoning bylaws and approved plans. At a minimum, all excavated disturbed areas shall be loamed (4" minimum) and seeded with a hardy grass mix.
32. All outdoor refuse collection dumpsters shall be screened from public view from the street and shall have covers. Trash shall be controlled and picked up daily if not contained in the dumpster.
33. Parking lot lighting shall be turned off or dimmed during the hours the facility is closed for operation, unless otherwise deemed necessary by the Hopedale Police Department for safety reasons. All sign illumination shall also be turned off during these hours except for the illumination of signs regarding hours of operation, truck idling, and wayfinding for the purpose of directing truck access and egress in accordance with the conditions in this decision. Lighting and illumination levels shall be in compliance with the submitted lighting plan. All fixtures shall have LED bulbs and adjustable shields so that none of the site lighting extends beyond all property lines adjacent to the residential neighborhood. The shields shall prevent direct viewing of all lighting bulbs from adjacent parcels. Increased lighting is permitted at the driveway entrance to provide adequate public safety.
34. Hours of Construction shall be as follows:
  - Interior Building Fit Out: Monday through Friday 7:00am to 7:30pm; Saturdays 8:00am to 5:00pm; Sundays – no work allowed
  - Exterior Building Construction and Site Work: Monday through Friday 7:00am to 6:30pm; Saturdays 8:00am to 5:00pm; Sundays – no exterior work allowed.
  - Holidays: No work is allowed on the following legal holidays: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas.
  - Exceptions: These hours of operation may be expanded, by approval of the Building Commissioner, after a review of neighborhood impacts.
  - Contractors: No contractors are allowed on site more than 15 minutes prior to the permitted start of construction.
35. Prior to the issuance of the Building Permit (BP) or Certificate of Occupancy (CO) for the Project, as indicated below, the Applicant shall satisfy the following requirements of the Hopedale Fire Department:
  - a. Submit to the Fire Department for review and approval a fire protection/detection plan and sprinkler plan. The plan shall include detailed information for the water distribution system and anticipated water flow data, building sprinkler details and hydrant locations. (*before BP*)

- b. The Applicant shall confirm with the Department that the proposed driveway configuration provides adequate 360-degree access for fire apparatus around the building. *(before BP)*
  - c. The Applicant shall install a fire alarm radio box providing a direct connection to the Fire Department. It should be compatible with the current Fire Department receiving equipment. The Applicant may choose its own equipment, provided it is approved in advance by the Fire Department, and the receiving equipment and programming software are provided by the Applicant to the Fire Department in an acceptable manner. *(before CO)*
  - d. A fire department connection shall be installed at a location approved by the fire department, if required. *(before CO)*
  - e. Bidirectional radio amplifiers shall be installed unless an alternate method is agreed to by the Department. This will include two Fire Department radio channels and one Police Department channel, as specified by each department. *(before CO)*
36. The Applicant shall submit to the Fire Department for review and administrative approval the proposed use of, and methods for, blasting at the Site, if any such blasting is proposed. Any conditions imposed on the Project as part of the Fire Department Blasting Permit, if any, shall be strictly followed and enforced. The use of blasting materials containing perchlorate shall be prohibited.
37. The Applicant shall coordinate with Hopedale Police and Fire to provide adequate access for public safety personnel to the site.
38. The Applicant shall be responsible for litter control both during and after construction.
39. During construction, the Applicant shall install construction fencing adequate to ensure public safety.
40. No fuel oil or potentially hazardous or flammable materials shall be stored on-site in excess of that allowed under the Groundwater Protection District of the By-Laws.
41. All concrete washouts shall occur at a washout pit constructed in conformance with the design plans.
42. All infrastructure (utilities, driveways, sidewalks, drainage, etc.) to service the building shall be constructed as shown on the Final Site Plan prior to occupancy of the building. If all work is not completed, the Building Commissioner may issue a temporary Certificate of Occupancy, after consultation with the Planning Board. In such instance, surety acceptable to the Board may be required to ensure completion.
43. A Performance Bond, or other suitable surety in a form acceptable to the Town Treasurer, in the amount of \$20,000.00 shall be required prior to the start of construction. Because work is being performed in an environmentally sensitive area (Zone II), the specific purpose of this bond is to ensure that adequate funding is available to restore the site to an environmentally safe condition if all stormwater management related work is not completed. The bond shall be released upon completion of such stormwater management work and certification by the Board's peer reviewer that such work was in compliance with the approved plans.

**Special Conditions** – The following conditions pertain to the operation of the facility after a Certificate of Occupancy has been issued.

44. Hours of Operation:

- a. Activities inside the building and on the lot are not restricted as to hours of operation.
- b. Operation and emptying of the trash containers shall be between the hours of 7:00am and 9:00pm.
- c. The loading bay doors shall be closed when the bays are not operational (active loading/unloading of cargo) to prevent noise leaving the building from interior operations.

45. Vehicle Limitations:

- a. The impact of vehicles on the surrounding neighborhood, Hartford Avenue, and Route 140 was of major concern to the Board and residents, although the Board understands that Hartford Avenue and Rt. 140 provide transportation access to the interstate highway system. Predicted typical traffic flows based on the proposed use were provided by Bayside Engineering, and are as follows:

**TABLE 4**  
**TRIP GENERATION SUMMARY**

	Automobile Trips <sup>a</sup>	Truck Trips <sup>a</sup>	Total Warehouse Trips
Average Weekday Daily Traffic	704	370	1,074
<i>Weekday Morning Peak Hour:</i>			
Entering	75	6	81
Exiting	18	6	24
Total	93	12	105
<i>Weekday Evening Peak Hour:</i>			
Entering	22	10	32
Exiting	76	9	85
Total	98	19	117

<sup>a</sup>Based on ITE LUC 150 – Warehousing; 614,875 sf

(TIAS, p.25.)

- b. Total daily truck and other vehicle traffic generated by the facility shall not substantially deviated from these numbers on a regular or sustained basis.
- c. The facility shall not produce traffic consistent with a Fulfillment Center (ITE Land Use Code 155) or Parcel Hub (ITE Land Use Code 156). Any commercial delivery vans utilizing the facility shall be included in the truck count when calculating the daily cap, with the exception of delivery vans for building supplies or operations, which shall count

toward the total vehicle cap only. To the extent the Applicant or any tenant wishes to change the use of this property to something other than ITE Land Use Code 150 (Warehousing) and the proposed use will, in the opinion of the Planning Board's peer review consultant (the reasonable cost of which shall be borne by the applicant), have a greater projected traffic impact, including but not limited to a so-called "last mile distribution center," the Applicant must apply to this Board for a Site Plan Modification and must obtain approval of this Board prior to commencing any use other than said ITE Land Use Code 150, which approval may be denied or granted subject to additional conditions and/or mitigation measures by the Applicant. In addition to the foregoing, to the extent the Applicant has agreed in a prior written submission to the Board or to a peer review consultant to greater restrictions than those set forth in this Decision, such additional restrictions shall be deemed incorporated into this Decision by reference, and such restrictions shall be binding upon the Applicant, as if set forth fully herein.

- d. Monitoring: Enforcement of these vehicle caps is of vital importance to ensure the protection of the health, safety and welfare of the neighboring residences. The Applicant shall develop a Traffic Monitoring Program (TMP) to begin six months after initial occupancy and be completed once full (85% or higher) occupancy of the site is achieved and include the following:
- i. Monitoring will include turning movement counts at the TIAS study area intersections and site driveway between the hours of 5:00 AM and 9:00 AM, and between 4:00 PM and 7:00 PM to capture warehouse peak generating periods.
  - ii. Initiation of monitoring will allow for early identification of operational deficiencies that may require immediate action/countermeasures by the Applicant.
  - iii. Automatic traffic recorder counts with classification, utilizing video-based equipment, on the site driveway to include a continuous 48-hour period over two (2) weekdays.
  - iv. Evaluating motor vehicle crash data at the Project site driveway and TIAS study area intersections.

The results of the monitoring program will be summarized in a report to be provided to the Town of Hopedale upon completion of the data collection. The report will document the traffic volumes associated with the project and any delays, queuing and crash rates at the TIAS study intersections.

If any of the following conditions are documented as part of the monitoring program: 1) traffic volumes of the project exceed the predicted traffic volumes by more than 10% on a regular and sustained basis; 2) there is a material increase in the number of motor vehicle crashes at the project study intersections that are attributable to the Project; or, 3) delays and queuing at the study intersections materially exceed predicted levels due to the impact of the Project, the Applicant will identify and undertake corrective measures to offset the additional project traffic impacts, subject to the reasonable approval of the

Planning Board's peer review consultant (the reasonable cost of which shall be borne by the Applicant). Such corrective measures may include, for example:

- i. Installation of additional signage and pavement markings.
- ii. Implementation of signal timing improvements to account for new traffic impacts.
- iii. On-site operations and management strategies to include:
  1. Expansion of TDM elements.
  2. Scheduling of employee and truck operations to minimize impacts.
  3. Other measures designed to reduce traffic impacts generated by the Project.

In addition to the foregoing, to the extent the Applicant has agreed in a prior written submission to the Board or to a peer review consultant to greater monitoring than that which is set forth in this Decision, such additional monitoring shall be deemed incorporated into this Decision by reference, and such monitoring protocols shall be binding upon the Applicant, as if set forth fully herein.

46. Traffic Mitigation:

- a. Vehicle patterns shall be as follows:
  - i. Trucks travelling to the site shall access the site by taking a right-hand turn onto Plain Street from Hartford Avenue and then a left turn into the site from Plain Street.
  - ii. Trucks may only take a right-hand turn out of the site and may not utilize Mellen Street, Newton Street, or Warfield Street. "Right turn only" shall be visibly and conspicuously posted at the site.
  - iii. The Applicant will consult with the Planning Board to determine the need for further review/analysis if the Monitoring Program indicates that the site generates project traffic that exceeds the predicted traffic volumes identified in the submitted TIAS by more than 10% on a regular and sustained basis for mitigation as provided in the TMP.
  - iv. The Applicant shall, at its own expense, improve the intersection at Hartford Avenue and Plain Street as described in these proceedings and as shown on the proposed intersection improvement plan submitted by Bayside. Such construction shall be designed to accommodate WB-67 tractor trailer trucks, shall be completed with oversight by the Town's peer review consultants, the reasonable expense of which shall be paid by the Applicant, and shall be constructed in a manner that does not preclude future sidewalks and "complete streets" design elements.
  - v. The Applicant shall apply to Mass DOT on behalf of the Towns of Hopedale and Mendon for Heavy Commercial Vehicle Exclusions for Newton Street, Mellen Street, Warfield Street, and Neck Hill Road. (The respective Towns will be the applicant for these exclusions. If the Select Board or appropriate authority of either Town does not approve the application and/or directs the Applicant in writing not to undertake these applications, then failure to do so will not constitute a violation of this Decision. It will be the responsibility of the Town(s) to secure the approval from the Select Board or appropriate authority for the application.)



- vi. The Applicant shall work with the Town of Mendon to modify the location of the STOP bar for the exclusive left-turn on the Cape Road northbound approach to the Route 140/Hartford Avenue intersection. If monitoring shows a more than 5% change in total volume at this intersection, the Applicant shall work with the Towns of Hopedale and Mendon to provide a more detailed evaluation and identify potential mitigative actions consistent with the traffic monitoring program.

In addition to the foregoing, to the extent the Applicant has agreed in writing, either via written submission to the Board or to a peer review consultant, to undertake additional mitigation measures not specified herein, including without limitation all commitments contained in the Memorandum to the Board submitted by the Applicant on April 25, 2022, such additional mitigation measures shall be deemed incorporated herein by reference and shall be binding upon the Applicant, as if set forth fully herein.

- b. Signage shall be posted at the exit directing traffic in the direction described above. It shall be the Applicant's responsibility to notify all users of these site restrictions to the extent such notice reasonably can be provided.
- c. Applicant shall remove the existing signage on South Main Street directing traffic to the Rosenfeld Concrete facility.
- d. Vehicles exiting the Project site shall be placed under STOP-sign control with a marked STOP-line provided.
- e. All traffic signs and pavement markings shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) standards.
- f. All recommendations in the submitted Transportation Demand Management plan by Bayside Engineering and the peer review of same by MDM Transportation are hereby incorporated by reference as conditions of this permit.

47. Noise Impacts:

- a. No-idling signs shall be placed around the building so as to be clearly visible to all trucks. No vehicles shall be allowed to idle for more than 5 minutes. For purposes of clarity, the provisions of G.L. c. 90, § 16A (the "Anti-idling Law") shall be enforceable on the site, and to the extent such statute may be deemed to only apply to public ways in the Commonwealth of Massachusetts, the Applicant agrees that its tenants, licensees, and invitees shall be bound by the terms set forth within the statute when on the site. Furthermore, the exemptions listed under the Anti-idling Law relative to delivery of goods and the need for alternative power sources shall not apply to vehicles at the Facility. It shall be the responsibility of the Applicant to ensure that adequate infrastructure is available at the Facility to allow trucks to utilize the Facility without the need to idle.

- b. Implementation of and observance of the Applicant's self-imposed "Good Neighbor" mitigation shall be a condition of this approval, including:
- a. Requiring tenants to designate a person responsible for the on-site compliance of the conditions of this Decision, as well as state, local and federal environmental laws and regulations;
  - b. Posting signage and requiring tenants to enforce the Anti-idling Law to reduce idling vehicles, noise, and air emissions whenever possible;
  - c. Requiring all rooftop equipment to comply with MassDEP Noise Regulations;
  - d. Actively promoting and encouraging the use of "white noise" backup alarms to the fullest extent permitted by law;
  - e. Providing an on-site break room to minimize vehicle trips and provide a lounge area for drivers;
  - f. Prohibiting refrigerated storage or refrigerated trucks unless they can meet the sound requirements of this Decision and of the HMMH's peer review analysis;
  - g. Requiring that dock doors and exterior doors be closed when not in use to minimize any interior noise from exiting the building;
  - h. Requiring facility tenants to train managers and employees on efficient scheduling and load management to eliminate queuing and idling of trucks;
  - i. Requiring the use of electric powered yard trucks during established "quiet hours" and provide charging stations for their use;
  - j. Posting signs and educating drivers on approved truck delivery routes to the nearest highway system and clearly designating site entrance and exit points to prevent any truck traffic through residential streets;
  - k. Prohibiting any parking of vehicles on Plain Street and overnighting on-site;
  - l. Prohibiting any tenant installed speed bumps on site;
  - m. Prohibiting the use of so-called "jake breaks" or "jake breaking" on Plain Street or anywhere in the facility, except when required for safety purposes;
  - n. Prohibiting any alterations of buildings that would locate any additional dock doors on the Plain Street or Mill River sides of the building;
  - o. Maintaining site paved areas to reduce truck noise from uneven pavement;
  - p. Performing preventative maintenance of all rooftop equipment to minimize sound from mechanical equipment; and
  - q. Prohibiting the use of any exterior public address systems that are audible at the property line.
- c. Idling reduction technologies, including electric parking spaces (anti-idling plugs) shall be available at all operational loading bays throughout the building as needed.

- d. The site plans have been revised to include: (a) a sound berm/barrier to mitigate impacts to Bens Way and Richard Road which will be 715 long with a top elevation of 248 feet; (b) maintaining an existing precast concrete block wall to the east of the property which is 446 feet long with top elevation of 266 feet; and (c) berms to the north and south of the site driveway with top elevations of 268 and 270 feet, respectively. Design of the berms/barriers shall be approved by the Building Commissioner prior to installation and may be subject to peer review at the Building Commissioner's discretion and the Applicant's expense, in accordance G.L. c. 44, § 53G.
- e. Plans also reflect the stated intent of the Applicant that, during the overnight hours, terminal tractors (i.e., yard truck or hostler) used to transport trailers to and from the warehouse building and the trailer storage areas will be electrically powered (i.e., substantially quieter than diesel-powered tractors).
- f. The Board may require post-occupancy sound monitoring, at the Applicant's expense, within six months of building occupancy, but not sooner than two months after building occupancy to allow time to establish routine procedures within the facility. Upon completion of the post-occupancy sound monitoring, the Applicant's sound engineer shall submit a report to the Planning Board summarizing the results of the monitoring. The report shall provide a description of the methodology, the data collected, the results of the monitoring, and a comparison between pre-construction ambient sound levels and post-occupancy ambient sound levels. Additional information may be requested by the Board or its consultant if needed to ensure compliance with these conditions. Post-occupancy sound monitoring will be performed for those continuous sound sources regulated under the Massachusetts DEP Noise Policy.
- g. The sound barrier shall be installed as early as possible during construction in order to reduce construction impacts to the abutters.
- h. If the ZEO deems there may be good reason to believe that these acoustical conditions are not being met, the Applicant shall be required to monitor and report on actual noise levels after facility operation commences, at reasonable intervals using reasonably customary methodology, to ensure that the facility operation is consistent with the sound conditions listed above. Should sound levels exceed the conditioned levels, the Applicant shall cease or reduce operations until such time that adequate sound mitigation is provided to meet these standards.

#### 48. Use Limitations:

The use of this building is limited to warehouse, with ancillary business offices. These uses are permitted "by right" under the local zoning bylaws. The warehouse traffic patterns correspond to ITE (Institute of Transportation Engineers) Land Use Code 150, which anticipates an average daily traffic generation rate of 1,074 total vehicle trips per day for a building of this size. Traffic volumes that correlate to ITE Land Use Codes 155 (Fulfillment Center) and LUC 156 (Parcel Hub) are not permitted for this site. The vehicle cap numbers listed above are provided to allow appropriate daily fluctuations from the average vehicular volumes expected for the permitted

warehouse and business office uses, but, as a whole, traffic trips are expected to closely mimic the anticipated trip numbers provided by the Applicant. The use of aerial drones for building operational purposes is not permitted on the site. No refrigerated storage is allowed in the facility unless it meets the noise restrictions contained in this decision.

49. Water impacts:

- a. The existing municipal water service is sufficient to service the property. In addition, the Applicant has agreed to, at the Applicant's expense, construct an extension of an existing water line and meter pit on Plain Street approximately 500' from an existing fire hydrant to the Town line with Mendon at the intersection of Plain Street and Hartford Avenue, which shall be completed in conjunction with the above-stated intersection improvements. All such work shall be reviewed and approved in advance with the Water & Sewer, Highway, Roads and Building Departments, and the Applicant shall provide such departments and their consultants reasonable plans and shall conform with all applicable, federal, state, and local laws, rules, and regulations. All such work shall be completed prior to the issuance of a Building Permit.
- b. Hydrants are proposed around the building, and the Applicant will demonstrate to the Fire Department that the required fire flow and pressure will be provided sufficient to meet the operational requirements of the building sprinkler system. Specific details of this system have not been provided to the Board.
- c. The Applicant shall provide access easements to the Town in areas agreed upon between the Applicant and the Water & Sewer Department for accessing potential off-site well locations, provided that said easements shall not unreasonably interfere with construction or operations of the site.
- d. The Applicant agreed to be bound by four (4) to one (1) removal of inflow and infiltration for the calculation of its sewer mitigation fee, equaling \$238,500, even though the Town's current standards may be lesser.

50. Visual impacts:

Berms, plantings, fencing and other landscape features designed to screen the site from neighboring parcels shall be maintained in good condition for the life of the facility.

51. Financial impacts/Mitigation:

The Applicant has submitted a proposed mitigation package, which in addition to the intersection improvements, sound barriers, water line extension, and water-sewer easements referenced above, consists of payment to the Town the sum of \$625,000, which monies are intended (subject to municipal finance laws) to be applied as follows:

- a. \$200,000 intended to be used for upgrades, improvements or repairs to the Town's existing parks and recreation areas;
- b. \$200,000 intended to be used for improvements or expansion of existing Town services;

- c. \$200,000 intended to be applied towards expenses associated with the construction of a new water tank for the Town; and
- d. \$25,000 for the DPW to use for engineering and construction costs necessary to mitigate pre-existing drainage concerns on Plain Street.

The above sum of \$625,000 shall be payable to the Town prior to the issuance of a Certificate of Occupancy.

### **Enforcement**

52. The Board may work in coordination with the Zoning Enforcement Officer ("ZEO") to ensure compliance with these conditions. As an alternative, or in addition, to the authority of the ZEO under G.L. c.40A, §7 and the Zoning Bylaw, the Board may reopen this decision if, in its discretion, it determines such action appropriate to address any alleged violations:

- a. The ZEO shall provide the Board with copies of all violation orders and notices issued to the Applicant.
- b. The Board may determine to hold a public meeting to review such violations; in such event, the Board shall provide written notice to the Applicant and/or its authorized representatives, who shall appear before the Board at such public meeting to respond to and address said allegations.
- c. The Board shall review the applicable information and make findings with respect to the alleged violations.
- d. The Board shall require the Applicant to take any reasonable corrective and preventative action measures to mitigate impact from the violations and to prevent reoccurrence of similar violations in the future. The Board may impose reasonable additional conditions upon this Decision to ensure compliance and mitigate impacts of the project.
- e. The Board's administrative process is not intended to preclude any enforcement action that may be taken by the ZEO, or to discourage the Applicant from taking self-corrective action prior to Board review. It is expected that if the ZEO raises areas of potential non-compliance, the Applicant will work expeditiously with the ZEO to resolve the issues raised, without requiring Board action.
- f. The Board or ZEO may require the Applicant to pay any reasonable costs associated with addressing any violation, such as police detail, peer review, legal or administrative costs.
- g. In addition to the above, the ZEO may also issue fines to enforce compliance following notification to the Applicant/Owner and providing a reasonable opportunity to cure the alleged violation in a manner consistent with this Decision. Each violation of these conditions shall constitute a separate offense. For example:
  - i. Each daily vehicle trip that exceeds the conditioned cap shall constitute a separate violation.
  - ii. Each day where noise exceeds the conditioned threshold shall constitute a separate violation.
  - iii. Each day where the hours of operation exceed the conditioned threshold shall constitute a separate violation.

- h. This decision is binding on the building in its entirety and all tenants therein. If the building is utilized by multiple tenants, it is not the responsibility of the Board to determine which tenant is in violation. Rather, all tenants shall be deemed in non-compliance until such time as the issues for the building as a whole are resolved.
- i. The ZEO may additionally seek enforcement of the conditions through judicial means in any Massachusetts court of competent jurisdiction, and the Applicant shall reimburse the Town for its reasonable attorney fees and litigation incurred in any such enforcement action.

### **Deadlines**

53. The construction of the approved Site Plan shall commence within two (2) years from the date of recording of this decision with the Town Clerk, exclusive of such time required to pursue or await the determination of an appeal. At the discretion of the Planning Board, an extension may be granted. Absent an extension, failure to commence construction of the approved Site Plan within the specified two (2) year period shall be deemed by the Planning Board to be grounds for rescission of its approval of the plan. Applicant shall employ commercially reasonable efforts to complete construction once commenced.

### **Decision of the Board**

The Planning Board, at its meeting held on 05/11/2022, upon motion duly made and seconded voted to APPROVE, subject to the findings and conditions listed above, the construction and operation of a warehouse facility located at 75 Plain Street, Hopedale, MA and to recommend to the ZBA that it issue a Special Permit for the rendering of more than 2,500 square feet impervious within the GPD.

### **Vote on Development Permit for Site Plan Review, pursuant to By-Law § 18.3(e):**

	<u>In favor</u>	<u>Opposed</u>	<u>Abstain</u>	<u>Absent or Ineligible</u>
Stephen Chaplin	✓			
Kaplan Hasanoglu		✓		
Jimmy Khokhar	✓			
Michael Costanza	✓			
Christopher Cody Chase				✓

A complete record of these proceedings is on file with the Town Clerk and with the records of the Planning Board.

This decision and all plans referred to in the decision, have been filed with the Building Commissioner, Board of Health, and Town Clerk.

Signed this the 11<sup>th</sup> day of May, 2022 by:

Members of the Hopedale Planning Board:



Stephen Chaplin



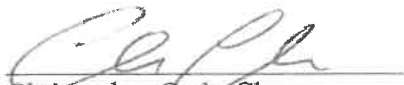
Kaplan Hasanoglu



Jimmy Kolikar Jimmy KHOKHAR



Michael Costanza



Christopher Cody Chase

cc: Town Clerk                      Building Commissioner  
Applicant                      Zoning Board of Appeals

